

NOTICE OF PROPOSED REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code (GC) Sections 12838.5, 12838.7, and the additional authority of GC Sections 87300-87302 and 87306, proposes to amend Section 7001 of Division 7, and repeal Section 2005 of Division 2, Section 3416 of Division 3, and Chapter 1, Article 2, Section 4020 of Division 4 of the California Code of Regulations (CCR), Title 15, relating to the disclosure of economic and financial interests in accordance with the requirements of the Conflict of Interest Code for the Department of Corrections and Rehabilitation.

PUBLIC HEARING:

Date and Time: **March 6, 2006, 9:00 am to 11:00 am.**
Place: Water Resources Auditorium
1416 Ninth Street
Sacramento, CA 95814
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close **March 6, 2006 at 5:00 pm.** Any person may submit public comments in writing (by mail, by fax or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections and Rehabilitation, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916)358-2636; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 358-1655**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**Randy Marshall
Regulation and Policy Management Branch
Telephone (916) 358-1655**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Ellery Kuhn
Office of Personnel Services
Telephone (916) 322-0619**

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT:

- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business, because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION, OR EXPANSION:

The Department has determined that the proposed regulation will have no affect on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified

and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the final statement of reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

On May 10, 2005, Legislation (Senate Bill 737) was signed into law and became effective on July 1, 2005. On this effective date, the Youth and Adult Correctional Agency (YACA), which consisted of the California Department of Corrections (CDC), the Department of the Youth Authority (YA), the Board of Prison Terms (BPT), the Board of Corrections, the Youth Authority Board, and the Narcotic Addict Evaluation Authority was abolished, and reorganized into the CDCR.

GC Section 12838(a) creates the CDCR, headed by a secretary. The CDCR shall consist of Adult Operations, Adult Programs, Juvenile Justice, the Corrections Standards Authority, the Board of Parole Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board.

GC Section 12838.5 vests to the CDCR, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished entities: YACA, CDC, YA, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and State Commission on Juvenile Justice, Crime and Delinquency Prevention.

GC Section 12838.7 provides that the Secretary of the CDCR shall serve as the Chief Executive Officer of the CDCR and shall have all of the powers and authority which are conferred upon a head of a state department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

GC Sections 87300-87302 requires that every agency shall adopt and promulgate a Conflict of Interest (COI) Code which shall designate the positions which involve the making, or participation in the making, of decisions which may foreseeably have a material effect on any designated employees financial interest for reportable investments, business positions, interests in real property, and sources of income.

GC Section 87306 requires every agency to amend its COI code when change is necessitated by changed circumstances, including the creation of new positions and relevant changes in the duties assigned to existing positions.

Since enactment of the Political Reform Act in 1974, state agencies are required to adopt and put into force a COI code for the purposes of identifying and deterring economic and financial conflict in governmental decision making by providing the disclosure of the financial interests and assets of public officials. Under such codes, individual agencies identify which positions within their agency should report interests and assets and the information disclosed and reported to the Fair Political Practices Commission (FPPC).

With the creation of the CDCR, four existing COI codes have been made obsolete and must be updated or replaced within six months of the July 1, 2005 effective date of SB 737. This proposed action will incorporate into the CCR, Title 15 an amended COI code for the new CDCR.

In order to amend and or repeal multiple sections from different Divisions of the Title 15, it was determined that because YACA was the "parent" body into which the other subordinate units have been merged, the best approach would be to amend YACA's code (Title 15, Section 7001) together with using preserved and updated content from the now abolished COI codes for the former BPT (Section 2005), CDC (Section 3416), and YA (Section 4020) while at the same time repealing the codes of the above named abolished entities.

This new proposed COI code for the CDCR will:

- Incorporate into Title 15, Section 7001, structural and position changes mandated by SB 737 with new titles named in the act.
- Retain and transfer the current listing of appropriate positions from the old COI codes to the new CDCR COI code, with certain positions being dropped, new positions added and obsolete positions deleted or replaced with appropriate titles to match the contemporary organizational structure.
- Better identify the positions affected which may be subject to a disqualifying conflict of interest with an emphasis not to include all individuals in certain positions that are nearly universal to the Department (such as Staff Services Analysts, Associate Governmental Program Analysts, Staff Services Managers), who will not be subject to the requirements of this rule.

- Show the positions under "divisional" headings so as to also better distinguish which employees are required to comply with the provisions of this regulation.
- Reduce the number of disclosure categories (Appendix B) from the existing six categories of the superseded COI codes down to three. This allows similar categories to be combined into fewer designations in order to eliminate redundancy and to provide greater efficiency in the text.